

IN THE COURT OF CRIMINAL APPEALS
OF THE STATE OF TEXAS
PD-0035-18

FILED
COURT OF CRIMINAL APPEALS
3/19/2018
DEANA WILLIAMSON, CLERK

FREDDY GARCIA

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VS.

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THE STATE OF TEXAS

On Petition for Review of
No. 14-16-00242-CR
Court of Appeals
Fourteenth District of Texas

**APPELLANT'S MOTION FOR LEAVE TO FILE OUT-OF-TIME
REPLY TO PETITION FOR DISCRETIONARY REVIEW**

Appellant, Freddy Garcia, moves for leave to file his reply to the State's petition for discretionary review, in the interest of justice.

TEX. R. APP. P. 10.5(b) statement:

- (A) Deadline for filing: February 24, 2018
- (B) Length of extension sought: 15 days
- (C) Facts relied on: The failure to timely file a reply to the State's motion for rehearing is in no way a result of anything Appellant himself did or failed to do. Rather, it is solely my responsibility and mistake as his appellate counsel. I am embarrassed to admit it, but I simply mis-calendared the deadline, though I have a calendaring system that has been in place for more than a decade and, until now, has been failsafe. This is literally the first time in 30-plus years of practice that I have calendared a deadline incorrectly. Due to my error in updating my monthly docket, I believed Appellant's Reply was due on Monday, March 13, 2018, and I submitted it for filing on that date. I did not realize the mistake until the Court returned the document on March 14, 2018.

With my most sincere apologies, I move the Court on behalf of Appellant, in the interest of justice, to accept the submission of his Reply and permit it to be re-submitted for filing.

(D) Number of previous extensions: 0

Tex. R. App. P. 10.5(c) statement:

(A) Court of appeals: Fourteenth Court of Appeals (Houston)

(B) Date of court of appeals judgment: December 14, 2017

(C) Case number and style: *Freddy Garcia v. State*, Cause No. 14-16-00242-CR

(D) Motions for rehearing: The State filed a Motion for Rehearing on July 31, 2017. On December 14, 2017, the court of appeals denied the motion, but entered a substitute opinion. No other motions for rehearing or en banc reconsideration were filed.

PRAYER

Appellant respectfully requests this motion be granted and the Court permit him an extension of time until March 13, 2018 to submit his motion for rehearing.

Respectfully submitted,

ALEXANDER BUNIN
Chief Public Defender
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/s/ Cheri Duncan

CHERI DUNCAN

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Freddy Garcia

CERTIFICATE OF SERVICE

I certify that a copy of Appellant's Motion for Leave to File Out-of-Time Reply to Petition for Discretionary Review was served electronically on the Appellate Division of the Harris County District Attorney's Office and the State Prosecuting Attorney March 15, 2018.

/s/ Cheri Duncan

CHERI DUNCAN